

265—9.12 (16) Rules of construction. In the construction of this chapter, the following rules of construction shall be observed, unless either the rules of Iowa Code chapter 4, Construction of Statutes, or the following rules of construction are inconsistent with the manifest intent or the context of a rule:

1. The word “shall” means mandatory and not permissive and the word “may” means permissive and not mandatory.

2. The word “closing” includes, but is not limited to, the recording of a deed executed and delivered in lieu of a mortgage foreclosure or pursuant to a mortgage foreclosure proceeding and also includes the entry into a binding agreement and transfer of possession by a seller to a buyer on a contract sale of land.

3. Nothing contained in this chapter shall be construed to require a participating attorney to disclose privileged information of a client to the division or to any other person.

4. Any rule that provides a specific remedy or sanction for violation of the rule shall not be construed as limiting the ability of the division to pursue and enforce other penalties or sanctions under this chapter, or otherwise, against the participating abstractor, participating attorney, independent closer or other person responsible or liable, either separately, concurrently, cumulatively, or in any combination, at the sole discretion of the division.

5. The failure of the division to enforce a right or remedy under this chapter, a statute, or common law shall not be construed as a waiver of such right or remedy either in the specific instance or in any other instance.

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